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PATENT & TRADEMARK OFFICE  
Customer No.: 26308

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Scribner et al.

Attorney Docket No.: 1759.15103-CON

Serial No.: 09/837,350

Examiner: A. Kokabi

Filed: 18 April 2001

Group Art Unit: 3751

Title: Expandable Preformed Structures for Deployment in Interior Body Regions

PETITION FOR AN UNINTENTIONALLY DELAYED BENEFIT CLAIM  
PURSUANT TO 37 C.F.R. §1.78(a)(3)

Office of Petitions  
Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Applicant requests to amend the benefit claim under 35 U.S.C. §120 of the above-noted application, as follows in marked-up form:

This application is a continuation of co-pending application Serial No. 09/088,459, filed June 1, 1998 (now abandoned). This application also claims the benefit of application Serial No. 08/788,786, filed January 23, 1997 (now U.S. Patent No. 6,235,043), which is a continuation of application Serial No. 08/188,224, filed January 26, 1994 (now abandoned).

The benefit claim, amended as proposed, was previously submitted in Applicant's Amendment A (filed March 4, 2003), filed in response to the Office Action mailed September 4, 2002.

Attachment A

Applicant states that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. §1.78 and the date the claim was filed was unintentional.

Applicant hereby petitions for acceptance of the unintentionally delayed benefit claim.

The requisite fee under 37 C.F.R. §1.17(t) is submitted herewith.

Respectfully Submitted,

By Patricia A. Limbach  
Patricia A. Limbach  
Registration No. 50,295

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14 November, 2003  
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Kyphon/13103-CON/031114 Petition Under 37 C.F.R. 1.78(a)(3)